

LEGAL DEPARTMENT REPORT 2003

I. OVERVIEW

In 2003 the City of South Bend Legal Department continued its role of providing support, advice and representation to various units of the City of South Bend and representing the City in litigation in state and federal courts, and before administrative agencies.

During 2003, the nine attorneys of the City Attorney's staff provided assistance to all of the departments and divisions within the City of South Bend, together with various City and City-related boards, commissions, and authorities, including the Alcoholic Beverage Board, the Human Rights Commission, the Board of Zoning Appeals, the Redevelopment Commission, Redevelopment Authority, Board of Public Safety, Board of Public Works, Park Board, the Century Center Board, and the Historic Preservation Commission.

The Legal Department provides advice to each of these departments and entities with respect to the conduct of their business under local, state, and federal law so that each entity will operate in compliance with all legal requirements. The department also represents the City in disputes in state and federal court and before administrative agencies in order to protect the City's interests when the City has been named as a defendant in lawsuits or administrative actions or to advance the City's interests when the City has a claim against a third party and litigation is the only way to achieve that goal of advancing and protecting the City's claims and interests.

The department also engages in negotiations with outside parties to establish the City's role in various projects and undertakings and prepares a variety of documents to memorialize the relationships which have been established to provide the framework for an ongoing relationship.

II. SELF-INSURANCE

The department managed the City's self-insurance liability program, paying out \$332,005.11 in claims against the City in 2003. If the risks covered by the self insurance program had been fully insured, the estimated premiums would have been in the \$2.5 Million to \$5 Million range. The cost savings are thus substantial although the amount of payout varies from year to year. The history of the City's liability self-insurance cost is as follows:

Year	Number of New Claims Filed	Claims Paid
1997	268	\$ 354,633.16
1998	249	\$ 414,674.30
1999	343	\$ 541,026.11
2000	245	\$1,121,523.20
2001	352	\$ 648,242.73
2002	220	\$ 341,655.19
2003	209	\$ 332,005.11

The claims review process, in conjunction with the defense, negotiation, and settlement process, assists City departments in identifying areas of risk and engenders discussion and action on the best ways to manage that risk.

III. PROSECUTION OF ORDINANCE VIOLATIONS

The Legal Department also prosecutes claims in the local courts for violations of City ordinances, occasionally through the injunction process, but most often through civil actions to collect fines. During 2003, \$160,036.66 was collected for ordinance violations and other miscellaneous accounts for various departments. The history of total collections is as follows:

1998	\$ 70,797.92
1999	\$ 75,446.00
2000	\$ 78,713.17
2001	\$114,053.78
2002	\$122,226.37
2003	\$160,036.66

A breakdown of the history for the collection of ordinance violations, which include code enforcement, loud and raucous noise, parks department, and any other miscellaneous violation of City ordinances, and parking ticket violations is as follows:

	<u>Ordinance Violations</u>	<u>Parking Tickets</u>
2000	\$30,544.17	\$17,866.00
2001	\$70,737.27	\$15,703.00
2002	\$82,005.55	\$17,168.00
2003	\$96,008.56	\$13,736.65

IV. LEGISLATIVE SERVICES

Legislative work of the department includes preparation of proposed ordinances to be submitted to the South Bend Common Council and review of proposed state legislation pending before the Indiana General Assembly. The attorneys from the Legal Department and the Common Council Attorney meet regularly to confer on issues of mutual concern.

V. TRAINING ON LEGAL ISSUES

The Legal Department also provides information and training to City employees on changes in the law. Members of the City Attorney's staff have provided training to the South Bend Police Department, the Department of Community and Economic Development, and the Department of Code Enforcement with respect to various issues.

Three attorneys from the Legal Department also participated in presentations at the IACT Annual Conference held in South Bend. Presentation topics included the Unsafe Building Act, annexation issues, and economic development.

VI. LITIGATION

At the end of 2003, the Legal Department was involved in the following litigation on behalf of the City of South Bend:

<u>Litigation Area</u>	<u>City as Plaintiff</u>	<u>City as Defendant</u>	<u>Pending Claims</u>
Code Enforcement	34	3	1
Injunctions	26		
Police Actions		17	1
Vehicles Accidents		12	10
Condemnation	3		
Personal Injury (not vehicle)		14	5
Discrimination		2	
Indiana Civil Rights Commission		1	
Property Damage	1		
Fair Labor Standards Act		1	
Administrative Appeals		1	
Utility Rates		1	
Misc.		<u>4</u>	<u>5</u>
Total	64	56	22

Minor miscellaneous matters not included in this table are Foreclosures with the City named because of its judgment liens, infraction cases in Small Claims Court, and Code Enforcement collections in Small Claims Court.

The Legal Department also participated in 5 mediation sessions in 2003 in an attempt to resolve disputes in litigation. Four (4) of the five (5) mediation sessions resulted in settlement of the dispute.

Department attorneys also participated in the following administrative hearings in 2003:

<u>Agency</u>	<u>Number of Hearings</u>
Human Rights Commission	12
Code Enforcement	72
License Denial Appeals	21
Board of Safety - Disciplines	2
Unemployment Hearings	9
Board of Zoning Appeal Hearing	12
Labor Management Meeting	4
Personnel - 3 rd Step Grievances	4

In 2003, the Legal Department was active in pursuing the drug and disorderly house ordinance. A total of 119 Notices to Abate under the Drug House Ordinance and 23 Notices to Abate under the Disorderly House Ordinance were sent to owners/occupants in the City. Two of these notices resulted in the filing of injunction lawsuits.

Major litigation concluded during 2003 included Kimsey v. South Bend, the City's challenge to Indiana's annexation law and the construction contract dispute involving the Leighton Center Parking Garage. Significant litigation in process included the challenge to the City's Adult Business Ordinance, the Roseland water/sewer dispute, and the Richard Alexander case.

VII. NEGOTIATIONS

Negotiations during 2003 involving department attorneys included collective bargaining with FOP Lodge 36, settlement negotiations and mediation to resolve pending claims and litigation, and project term negotiations to assist economic development activity.